

Honorable Ronald B. Leighton

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SHARON ALLEN; THE WASHINGTON  
PROTECTION AND ADVOCACY SYSTEM,  
INC., a Washington corporation; and THE ARC  
OF CLARK COUNTY,

Plaintiffs,

v.

WESTERN STATE HOSPITAL and ANDREW  
PHILLIPS, in his capacity as the Chief Executive  
Officer of Western State Hospital; et al.,

Defendants.

No. C99-5018RJB

JOINT ORDER PRELIMINARILY  
APPROVING SETTLEMENT, DIRECTING  
NOTICE TO CLASS MEMBERS, AND  
SCHEDULING FAIRNESS HEARING

This matter came before the Court pursuant to a joint motion filed by all parties asking that the Court preliminarily approve a proposed settlement pursuant to Fed. R. Civ. P. 23(3) and show its approval by entry of the Proposed Order and Settlement Agreement filed as an attachment to this motion. The parties are asking the Court to tentatively approve the settlement, including its attorneys' fees provisions, subject to further review once class members are given

JOINT (PROPOSED) ORDER PERLIMINARILY APPROVING  
SETTLEMENT, DIRECTING NOTICE TO CLASS MEMBERS,  
AND SCHEDULING FAIRNESS HEARING - 1

No. C99-5018

Washington Protection & Advocacy System

315 5<sup>TH</sup> Avenue South, Suite 850

Seattle, Washington 98104

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4 notice and an opportunity to file objections. They are also asking that the Court approve notice  
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6 of the proposed settlement, direct how this notice will be given to class members, schedule a  
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8 fairness hearing, and establish a briefing schedule on a motion for final approval of the proposed  
9  
10 settlement.

11         Based on the argument of counsel and evidence presented, the Court tentatively finds  
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13 pursuant to Rule 23(e) that the proposed settlement is fair, reasonable and adequate. There is no  
14  
15 evidence at this stage of the proceedings of fraud, collusion or overreaching by the parties or that  
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17 the rights of absent class members were disregarded. The Court also finds that the proposed  
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19 notice of the settlement is adequate to inform class members of the terms of the settlement,  
20  
21 including its provisions concerning attorneys' fees, and sufficiently explains how they might file  
22  
23 objections or participate in the fairness hearing.

Based on these findings, IT IS HEREBY ORDERED THAT:

1.       The Joint Motion is granted.
2.       The proposed settlement, including its attorneys' fees provision, is preliminarily  
approved, subject to further review once class members are given notice and an opportunity to  
file objections.
3.       The notice to class members regarding settlement of this matter, attached as  
Exhibit 2 to the Joint Motion is approved.

JOINT (PROPOSED) ORDER PERLIMINARILY APPROVING  
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4           4.       The parties shall provide the notice described in paragraph 3 above to members of  
5 the class as follows:

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7                   a)       The Defendant shall at its own expense mail a copy of the notice to all  
8 settlement class members or their legal guardians and, where applicable, to their significant  
9 others consistent with the Division of Developmental Disabilities (DDD) Policy 5.02, Necessary  
10 Supplemental Accommodation (NSA);  
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15                   b)       The Defendant shall post the notice at each DDD regional office and  
16 outstation where it shall be clearly visible to the public, class members, their guardians, DDD  
17 staff and other interested parties;  
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21                   c)       The Defendant shall also provide a copy of the notice at its own expense  
22 to any person requesting it;  
23

                  d)       The Defendant shall, upon request of a class member or a class member's  
legal guardian or significant other, provide notice to the class member in his or her primary  
language if the primary language is English, Spanish, Chinese, Vietnamese, Cambodian,  
Laotian, Russian or Somalia. Defendant shall provide notices in large print when required by  
DDD Policy 5.05, Limited English Proficiency (LEP) Clients. Defendant will also make  
reasonable supplemental accommodations for class members or their legal guardians who have  
an impairment or other problems that prevent them from understanding or responding to the

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4 notice, consistent with applicable DSHS regulations and DDD Policy 5.02, Necessary  
5 Supplemental Accommodation (NSA).  
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8 5. Plaintiffs' counsel shall schedule meetings throughout Western Washington for  
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10 any class members who wish to attend, where class counsel will be available to answer questions  
11 regarding the terms of the settlement in this case. Plaintiffs' counsel shall provide summaries of  
12 the settlement to class members who request such information. Costs associated with these  
13 activities shall be the responsibility of Plaintiffs.  
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18 6. Plaintiffs' counsel shall not be required to file a separate motion for attorneys'  
19 fees under Rule 23(h) or to give additional notice under Rule 23(h)(2) to class members of any  
20 motion for attorneys' fees. The notice being sent to class members adequately advises them of  
21 the attorneys' fee provisions in the proposed Settlement Agreement and their opportunity to  
22 object to the settlement as a whole.  
23

7. Any class members wishing to file comments regarding the Settlement Agreement may do so by filing such objections with the Court no later than March 26, 2007 at 4:30 p.m. Information related to this process is provided in the Notice.

8. A Fairness Hearing will be held on April 6, 2007 at 1:30 p.m. Information related to the Fairness Hearing is provided in the Notice.

JOINT (PROPOSED) ORDER PERLIMINARILY APPROVING  
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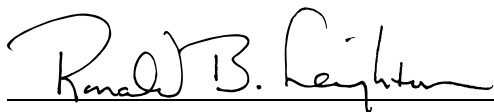
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4 9. The parties shall file a Joint Motion for Final Approval of the Settlement, together  
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6 with any supporting memorandum and supporting declarations or other documentation with the  
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8 Court no later than on April 3, 2007.

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10 DATED this 27<sup>th</sup> day of February, 2007.

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14  
15 RONALD B. LEIGHTON  
16 UNITED STATES DISTRICT JUDGE

17 Presented by:

18 /s/Deborah A. Dorfman

19 Deborah A. Dorfman, WSBA #23823  
20 Washington Protection & Advocacy System

21 /s/Rob Denton

22 Rob Denton  
23 Disability Law Center

Attorney for Plaintiffs

ROB MCKENNA  
Attorney General

/s/Morgan Pate

Morgan Pate, WSBA #32269  
Ed Dee, WSBA #15964  
Assistant Attorneys General

Attorneys for Defendants

JOINT (PROPOSED) ORDER PERLIMINARILY APPROVING  
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